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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,447	07/19/2001	Dieter Guldenfels	31529.0011	9657

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EXAMINER

SHARMA, RASHMI K

ART UNIT PAPER NUMBER

3651

DATE MAILED: 09/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/909,447

Applicant(s)  
Guldenfels et al.

Examiner  
Rashmi Sharma

Art Unit  
3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Sep 25, 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) 1-7 and 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8 and 10-16 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 and 4 6) ☐ Other:

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Response to Restriction Requirement, it should be noted that the Applicant elected claims 8-16 corresponding to Group II drawn to a modular belt system with traverse.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Lapeyre (U.S. Patent number 4,832,183).

Lapeyre discloses a modular belt conveyor system comprising a product conveying surface, an opening disposed substantially perpendicular to the product conveying surface (see figure 4A, the area between reference numeral 80 and 82), the module having a recessed portion defined therein adjacent to the opening such that a ledge is formed adjacent to the opening (see figure 4A), and a side guard (39) having a central post (bottom most part of 39 fitting into the recess against the ledge in figure 4A) capable of sliding into the opening such that the projection

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engages with the recessed portion in the belt module. Lapeyre thereby discloses the central post being removably attached to the belt module.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lapeyre (U.S. Patent number 4,832,183) in view of Damkjaer et al. (U.S. 6,073,756).Olsson).

Lapeyre as disclosed above, fails to show the plurality of belt modules comprising an intermediate section having a sinusoidal shape and a plurality of link ends extending from the

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intermediate section in opposite directions where each module is capable of being intercalated with an adjacent belt module by a pivot rod.

Damkjaer et al. does disclose a plurality of belt modules comprising an intermediate section having a sinusoidal shape and a plurality of link ends extending from the intermediate section in opposite directions where each module is capable of being intercalated with an adjacent belt module by a pivot rod and where the adjacent belt modules forming a radius belt capable of collapsing around a curved path (see figure 5).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the specific interlaced belt modules of Damkjaer et al.'s invention rather than that of Lapeyre's so that the side guard of Lapeyre's invention may be capable of being used on other types of conveyors for versatility.

6. Claims 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lapeyre (U.S. Patent number 4,832,183) in view of Olsson (U.S. Patent number 4,603,776).

Lapeyre as disclosed above, fails to show a side guard having a first wing extending from the central post, a second wing extending from the central post, both of which being laterally offset and opposite one another with respect to the longitudinal axis defined through the center of the central post, and a front surface of the central post being coplanar with the second wing.

Olsson does disclose a side guard having a first wing extending from the central post, a second wing extending from the central post, both of which being laterally offset and opposite one

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another with respect to the longitudinal axis defined through the center of the central post (see figure 5 reference numerals 3, 5, 8 and 10).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the side guard of Lapeyre's invention with that of Olsson's invention in order to provide for a more secure side guard arrangement.

It also would have been obvious to make the side guard central post front surface being coplanar with that of the second wing in order to provide more surface area contact so that products being conveyed would have minimal contact between any of two consecutive side guards, thereby allowing the conveying process to be uninterrupted.

***Allowable Subject Matter***

7. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

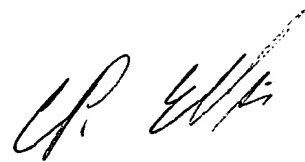
Dependent claim 9 recites the structural limitation of a modular belt system comprising a side guard having a central post having a back wall that is beveled inward and disposed opposite from the projection, in combination with the rest of the recited structure, clearly defines over the prior art.

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***Conclusion***

9. Any inquiry concerning this communication should be directed to Rashmi Sharma who can be reached at 703-306-5952 between the hours of 8:30 a.m. to 5:00 p.m. Monday through Friday.

Any general inquiry concerning the status of this application should be directed to the Group receptionist who can be reached at 703-308-1113.



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